

From: Bruce Sesnovich - Information Products
To: Microsoft ATR
Date: 1/17/02 3:24pm
Subject: Microsoft Settlement

Dear Sir or Madam,

I write to you during this public comment period to express my profound disappointment with the Department of Justice's proposed settlement in the Microsoft case.

In my opinion, the proposed settlement fails to ensure competition, fails to impose any significant penalty on Microsoft for past anticompetitive practices, and fails to dissuade such behavior in the future. Finally, it is my opinion that such remedies as are included in the settlement lack effective enforcement provisions.

Critical to any meaningful remedy would be a requirement for Microsoft to standardize and publish its proprietary Windows applications programming interfaces (APIs), as well as the file formats of its popular Office applications. Publication of and adherence to APIs is commonplace across the software industry. Having public APIs and open standards allow interoperation of many products from disparate sources. This encourages innovation and broad compatibility among products, and ultimately benefits the consumer.

As long as Microsoft is allowed to keep details of its APIs and file formats selectively hidden, it can ensure that any particular non-Microsoft product will not work consistently and reliably with its operating systems or Office applications. This further leverages its monopoly powers to the detriment of innovation, competition, and consumer interest.

I also find it disturbing that the proposed settlement includes no redress for or restriction on monies that Microsoft earned as a direct result of its anticompetitive practices. There is no provision to surrender any of these funds, nor even to prevent the company from using them in the future to buy up and squelch its competitors' products or the competitors themselves.

Finally, the enforcement provisions of the proposed settlement are far too weak to have substantive impact on a company with Microsoft's resources. Given the company's history of repeatedly flouting attempts to regulate its monopolistic behavior, it is my opinion that the inspection mechanisms to ensure compliance with DOJ settlement provisions need to be much more rigorous, and the penalties for violating them draconian. His Honor Judge Penfield-Jackson's suggested remedy of breaking up the software company would probably give Microsoft's top executives some pause. Anything less seems unlikely to

have a notable effect.

Sincerely,

- B. A. Sesnovich

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